

Dorczycki



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Automated Power Systems, Inc.

File: B-265858

Date: December 7, 1995

DECISION

Automated Power Systems, Inc. protests invitation for bids (IFB) No. DTCG36-95-B-B5B119, issued by the United States Coast Guard, Department of Transportation (DOT), for lampchangers listed on a qualified products list (QPL), which are used as marine aids to navigation.

We dismiss the protest because it does not establish a basis for challenging the solicitation.

The IFB is a fixed-price requirements contract for one year with one option year. The schedule of supplies states the estimated quantity of the agency's requirements during the term of the contract. The protester alleges that the IFB is defective because it does not state a guaranteed minimum quantity.

Our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds of a protest, 4 C.F.R. § 21.1(c)(4) (1995), and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(e). These requirements contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood that the protester will prevail in its claim of improper agency action. Robert Wall Edge-Recon., 68 Comp. Gen. 352 (1989), 89-1 CPD ¶ 335. A solicitation for a requirements contract need only provide a good faith estimate of required quantities. Federal Acquisition Regulation § 16.503; Sentinel Elecs., Inc., B-221914.2 et al., Aug. 7, 1986, 86-2 CPD ¶ 166. The agency's agreement to procure all of its requirements from the contractor is an adequate basis for a valid contract, thus such a solicitation need not state a guaranteed minimum quantity. Sentinel Elecs., Inc., supra. Since the absence of a guaranteed minimum quantity in a solicitation for a requirements contract is not improper, the protester has not stated a sufficient basis to protest.

Also, we do not think that Automated Power is an interested party to protest procurements of QPL items. As stated in previous dismissals of Automated Power's protests, it stated and provided documentation showing that it is no longer operating a manufacturing facility and, due to dire financial conditions, cannot

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commence operations in the foreseeable future. Automated Power now generally alludes to the possibility of subcontracting the manufacture of lampchangers instead of commencing its own manufacturing operations. This belated and unsupported claim that Automated Power could or would subcontract for these QPL items is simply not credible and is not a basis for considering Automated Power to be an interested party.

The protest is dismissed.¹

Comptroller General
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¹As in previous protests, Automated Power also protests issues which were the subject of prior protests, including the qualification of another firm's product for inclusion on the QPL. To the extent the protester's allegations challenge our prior decisions, its protest constitutes an untimely request for reconsideration filed more than 10 working days after receiving the respective decision. See 4 C.F.R. § 21.12. To the extent its protest is allegedly based on new information, the protest is untimely filed more than 10 working days after the protester knew or should have known of the basis for protest. See 4 C.F.R. § 21.2(a)(2). For example, Automated Power filed this protest on August 24, 1995, and it relies on documents it received from the agency on October 27, 1994, for a hearing before the DOT Contract Appeals Board. To be timely, Automated Power should have filed protests arising from such documents by November 10, 1994.